

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

PJM Interconnection, LLC

)

Docket No. ER04-521-000

**MOTION FOR CLARIFICATION
OR, ALTERNATIVELY, REQUEST FOR REHEARING
OF THE
ILLINOIS COMMERCE COMMISSION**

Pursuant to Commission Rules 212 and 713, 18 C.F.R. §§ 385.212 and 385.713, the Illinois Commerce Commission (“ICC”) hereby submits this motion for clarification of the Commission's *Order Conditionally Accepting Tariff Filing, PJM Interconnection, LLC*, 106 FERC ¶ 61,253 (2004) ("March 18th Order"), or alternatively, a Request for Rehearing of that March 18th Order issued in the above-captioned proceeding.

I. Background

On December 31, 2003, PJM filed tariff and operating agreement provisions providing for the integration of Commonwealth Edison (“ComEd”) into its system, including provisions for the single dispatch of the ComEd and PJM control areas through an approximately 500 MW transmission pathway across the American Electric Power Company (“AEP”) system, procedures to integrate ComEd into PJM's single energy market and single economic dispatch, and transitional capacity adequacy rules for Northern Illinois. The Commission

initially docketed PJM's filing in Docket No. ER03-262-014, and subsequently re-docketed it as ER04-521-000. On February 19th, 2004, the ICC filed a motion to file late comments and comments in the above-captioned docket. In that pleading, the ICC indicated that it filed a notice of intervention in docket no. ER03-262-000, noting that as such, the ICC believes that it was a party in docket no. ER03-262-014. As a party in that docket, the ICC believes that it is a party in docket no. ER04-521-000. Out of an abundance of caution, however, the ICC included a motion to intervene out of time in the event that our understanding of the ICC party status is inaccurate.

On March 18, 2004, the Commission issued *PJM Interconnection, LLC* wherein the Commission conditionally accepted PJM's filing.¹ However, the March 18th Order did not rule on either ICC motion. The March 18th Order also contained some ambiguity regarding the joint and common market condition. This motion seeks clarification on those points as described below.

II. ICC Motion for Clarification or, Alternatively, Request for Rehearing

A. Common Market

The Commission's March 18 Order discusses the joint and common market condition that FERC placed on PJM and the Midwest ISO when issuing its July 31, 2002 Order addressing the Alliance Companies' RTO choices.² The Commission correctly noted that implementation of the joint and common market will be delayed from the October 1, 2004 target date initially directed by the

¹ *PJM Interconnection, LLC*, 106 FERC ¶ 61,253 (2004) (*hereinafter*, "March 18th Order");

² March 18th Order, at P. 34; *see also*, *Alliance Companies, et al.*, 100 FERC ¶ 61,137 (2002) (*hereinafter*, "July 31st 2002 Order").

Commission due to the Midwest ISO's delayed market start-up.³ The Commission decided that it would not "be equitable to delay the ability of ComEd to join PJM because of these [Midwest ISO] delays."⁴

The ICC agrees with the Commission's decision that it would not be "equitable" to delay ComEd's integration into PJM because of MISO's delays in getting its real-time and day-ahead markets up and running. However, without explanation, the Commission's March 18 Order goes on to state,

Of the conditions set forth in the July 31 Order – formation of a common market between MISO and PJM, provisions for the operation of Independent Transmission Companies (ITCs), a way to hold harmless Wisconsin and Michigan utilities, a resolution of through and out rate problems, and NERC approval of PJM's and MISO's reliability plans – only a resolution of the hold harmless issue and NERC approval of the reliability plans are still outstanding.⁵ (Emphasis added).

The ICC believes that this Commission statement introduces uncertainty regarding the necessity of satisfying the common market condition. Accordingly, the ICC urges the Commission to clarify that the joint and common market condition that the Commission imposed on PJM and the Midwest ISO in its previous Orders is still applicable and that satisfaction of that condition remains outstanding, even though implementation of the joint and common market need not be considered as a prerequisite for integration of ComEd into PJM.

Timely and satisfactory implementation of the joint and common market may be the most important of the nine conditions that the Commission placed on

³ The Midwest ISO is currently targeting a December 1, 2004 start-up date for its real-time and day-ahead markets and no demonstration has been made that the joint and common market cannot be implemented on that date or soon thereafter.

⁴ March 18th Order, at P. 35.

⁵ *Id.*

its July 31, 2002 acceptance of ComEd's decision to join PJM rather than the Midwest ISO because that condition established the foundation for the other conditions. In its June 4, 2003 Order on rehearing and providing clarification of the July 31 Order, the Commission stated,

given the locations of New PJM Companies in the heart of, indeed, throughout, the Midwest ISO region and the tight links between these companies and their neighboring utilities in the Midwest ISO region (companies, we add, that had opted to join Midwest ISO), we could not accept their joining PJM as just and reasonable without the conditions we adopted.⁶

The ICC urges the Commission to make clear that satisfaction of the common market condition remains outstanding and that timely implementation of the common market (i.e., no later than nine months from the date MISO begins market operations) remains necessary for ComEd's integration into PJM to be just and reasonable.⁷

Alternatively, in the event that the Commission may not have intended that the joint and common market condition that the Commission imposed on PJM and the Midwest ISO in its previous Orders is still applicable and that satisfaction of that condition remains outstanding, the ICC requests rehearing on that point for the reasons discussed herein.

⁶ *Alliance Companies, et al.*, 103 FERC ¶ 61,274 (*hereinafter*, June 4th 2003 Order), at P. 21. The Commission also stated in its June 4, 2003 Order that its July 31st 2002 Order conditions "must be met in order for the various choices made for RTO membership in PJM to be just and reasonable." at P. 2.

⁷ In its July 31st 2002 Order, the Commission stated that nine months from the date MISO begins its LMP-based markets "is ample time to allow both organizations to overlay the market across the entire region." at P. 40.

B. ICC's Party Status and Motion to File Late Comments and Comments

As set forth above, the ICC also seeks clarification on its party status and on its motion of February 19th, 2004. In its motion to file late comments and comments in the above-captioned docket, the ICC indicated that given that it filed a notice of intervention in docket no. ER03-262-000, the ICC believes that it was a party in docket no. ER03-262-014. As a party in that docket, the ICC believes that it is a party in docket no. ER04-521-000. Out of an abundance of caution, however, the ICC included a motion to intervene out of time in the event that our understanding of the ICC party status is inaccurate.

On March 18, 2004, the Commission issued the March 18th Order conditionally accepting PJM's filing. However, the March 18th Order did not rule on either ICC motion. We ask the Commission to clarify that the ICC motion is granted and that our comments are a part of the record in this proceeding.

III. Conclusion

WHEREFORE, as explained herein, the Illinois Commerce Commission respectfully requests that the Commission clarify that, while implementation of a common market between PJM and the Midwest ISO need not be a prerequisite condition for integration of ComEd into PJM, the timely implementation of the common market (*i.e.*, within nine months of MISO's market start-up) remains an obligation for parties to fulfill if ComEd's decision to integrate into PJM is to be

considered just and reasonable. The ICC also seeks clarification that the motion filed on February 19th, 2004, is granted.

Respectfully submitted,

/s/ Christine F. Ericson

Christine F. Ericson
Deputy Solicitor General
Special Assistant Attorney General
Illinois Commerce Commission
160 N. LaSalle St., Suite C-800
Chicago, IL 60601
(312) 814-3706
(312) 793-1556 (fax)
cericson@icc.state.il.us

April 13, 2004

CERTIFICATE OF SERVICE

I hereby certify that I caused copies of the foregoing document of the Illinois Commerce Commission to be served this day upon each person designated on the official service list compiled by the Secretary in this proceeding in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure.

Dated at Chicago, Illinois, this 13th day of April, 2004.

/s/ Christine F. Ericson

Christine F. Ericson
Deputy Solicitor General and
Special Assistant Attorney General
Illinois Commerce Commission
160 N. LaSalle St.
Suite 800-C
Chicago, IL 60601
(312) 814-3706